IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

OP.No. 1997 of 2002(K)

PETITIONER:

C.H.K. AHAMMED, MUBARAK MANZIL, P.O.CHELERI
KANNUR DISTRICT

BY ADV. SRI.R.K.MURALEEDHARAN
ADV. SRI.R. PARTHASARATHY

RESPONDENTS:
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1. STATE OF KERALA,REPRESENTED BY
SECRETARY, LABOUR AND REHABILITATION DEPARTMENT,
SECRETARIAT,THIRUVANANTHAPURAM.

2. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND,KANNUR

3. SPECIAL DEPUTY TAHSILDAR (RR),
THALIPARAMBA,KANNUR DISTRICT.

R1 AND R3 BY GOVERNMENT PLEADER SMT. R. MEERA.
R2 BY ADV. SRI.PAULSON C.VARGHESE,SC,KMTWF BOARD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 1997 of 2002(K)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	:	TRUE COPY OF THE PROVISIONAL DETERMINATION ORDER DATED 17.12.1999 OF THE 2ND RESPONDENT.
EXT.P2	:	TRUE COPY OF THE FINAL DETERMINATION ORDER DATED 16.06.2001 OF THE 2ND RESPONDENT.
EXT.P3	:	TRUE COPY OF MEDICAL CERTIFICATE ISSUED BY DR. G.S. NAIR DATED 07.01.2002 TO THE PETITIONER.
EXT.P4	:	TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE IST RESPONDENT DATED 08.01.2002.
EXT.P5	:	TRUE COPY OF AFFIDAVIT AND DELAY PETITION FILED BY PETITIONER ALONG WITH APPEAL TO THE 1ST RESPONDENT.
EXT.P6	:	TRUE COPY OF NOTICE DATED 05.01.2002 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.
EXT.P7	:	TRUE COPY OF THE AGREEMENT DATED 29.01.1997.
EXT.P8	:	TRUE COPY OF THE PERMIT ISSUED BY THE RTA, KANNUR.
EXT.P9	:	TRUE COPY OF THE AGREEMENT DATED 29.08.1998.
EXT.P10	:	TRUE COPY OF THE PERMIT TO STAGE CARRIAGE KRN 2907 ISSUED TO KUNHANANDAN NAMBIAR BY THE RTA, KANNUR.
EXT.P11	:	TRUE COPY OF THE PROCEEDINGS OF THE RTA, KANNUR.

/TRUE COPY/

P.A. TO JUDGE.

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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O.P. No. 1997 OF 2002

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Dated this the 6th August, 2007

J U D G M E N T

H.L. Dattu, C.J.:

In this Original Petition, filed under Article 226 of the Constitution of India, the petitioner calls in question Ext.P2 order passed by the District Executive Officer, Kerala Motor Workers Welfare Fund Board, Kannur and Ext.P6 revenue recovery notice issued by the Special Deputy Tahsildar (RR), Taliparamba, Kannur district.

2. Aggrieved by Ext.P2 orders passed by the 2nd respondent, it appears that, the petitioner has filed an appeal before the State Government along with an application to condone the delay in filing the appeal. It is his grievance before this Court that during the pendency of the appeal, the third respondent could not have initiated any revenue recovery proceedings against the petitioner.

3. In our opinion, this submission of the learned counsel for the petitioner has no merit whatsoever. Ext.P2 order is not stayed by any superior forum. Merely because of an appeal is filed and the same is pending, it does

not mean that the second respondent cannot or is not expected to, initiate proceedings to recover any amount due under Ext.P2 order.

4. In view of the above, we do not see any merit in this Original Petition. Therefore, the Original Petition requires to be rejected and it is rejected.

5. C.M.P.Nos . 3497 and 43325 of 2002 are also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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H.L. DATTU, C.J.&
K.T. SANKARAN, J.

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O.P. No. 1997 OF 2002

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Dated this the 6th August,2007

J U D G M E N T